

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
Monday, December 21, 2015 – 9:00 a.m. – Room 445 State Capitol

Members Present:

Sen. Howard A. Stephenson, Senate Chair
Rep. Curtis Oda, House Chair
Sen. J. Stuart Adams
Sen. Gene Davis
Sen. Mark B. Madsen
Rep. LaVar Christensen
Rep. Carol Spackman Moss
Rep. Mark A. Wheatley

Members Absent:

Sen. Jim Dabakis
Rep. R. Curt Webb

Staff Present:

Mr. Arthur L. Hunsaker, Policy Analyst
Ms. Christine R. Gilbert, Associate General Counsel
Ms. Tracey Fredman, Legislative Assistant

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Oda called the meeting to order at 9:11 a.m. Sen. Dabakis was excused from the meeting.

MOTION: Rep. Moss moved to approve the minutes of the November 30, 2015, meeting. The motion passed unanimously. Sen. Davis and Rep. Christensen were absent for the vote.

2. Draft Bill, Department of Administrative Services

Mr. Ken Hansen, Deputy Director, Department of Administrative Services, stated support for draft legislation "Department of Administrative Rules Amendments" (2016FL-0536/012), which was distributed in the mailing packet. He noted that the bill replaces the Division of Administrative Rules with the Office of Administrative Rules within the Department of Administrative Services.

MOTION: Sen. Stephenson moved to recommend draft legislation "Department of Administrative Services Amendments" as a committee bill. The motion passed unanimously. Sen. Davis and Rep. Christensen were absent for the vote.

3. Lt. Governor Administrative Rulemaking

Mr. Mark Thomas, Director of Elections, Lt. Governor's Office, indicated that 2014 General Session S.B. 54, "Elections Amendments," changes the primary election process by providing alternative procedures for candidates seeking nomination.

Mr. Justin Lee, Deputy Director of Elections, Lt. Governor's Office, presented "Utah's New Primary Process" and reviewed the process for processing partisan candidate nomination petitions as set forth in proposed Rule R623-4, which was distributed in the mailing packet.

4. R432-550-11 Contracts and Agreements

Sen. Deidre Henderson distributed "R432-550-15 Clinical Staff and Personnel," "Regulatory Barriers for Licensed Midwives," and "Certified Nurse Midwife." Sen. Henderson asked the committee to consider recommending the sunset of two administrative rules that hinder licensed midwives from working in their field.

Ms. Suzanne Smith, Owner, BetterBirth LLC, discussed why the licensing of midwives is important.

Ms. Holly Richardson, Holly on the Hill, stated that the problem is competition, not safety.

Dr. Robert Rolfs, Deputy Director, Department of Health, noted that the department does not have authority over the content of the rule promulgated by the Health Facility Committee.

Mr. Jim Sheets, Chair, Health Facility Committee, discussed the makeup of the Health Facility Committee and the process for promulgating rules.

MOTION: Sen. Stephenson moved that the committee recommend the following to be placed on the sunset list:

- Rule R432-550-11, Contracts and Agreements, paragraphs 1, 3, and 4; and
- Rule R-432-550-15, Clinical Staff and Personnel, paragraphs 1, 2, and 5.

The motion passed with Sen. Davis voting in opposition.

5. Utah Highway Patrol Personnel Complaint Procedure

Mr. Scott Barzee, former Utah resident, briefed committee members on a negative experience he had with the Utah Highway Patrol and stated that he would like to see more transparency and accountability of police officers when they act in an inappropriate manner.

Colonel Daniel Fuhr, Utah Highway Patrol, reported that the incident was reviewed and the officer was found in violation of policy and was disciplined. Colonel Fuhr discussed the updated and current complaint process, and responded to committee members' questions.

Sen. Stephenson asked whether the complaint process should be in administrative rule.

Ms. Gilbert referred to Utah Code Section 63G-3-201, and reviewed when rulemaking is and is not required. She indicated there is no Utah case law on the internal agency management exception, and that case law from other states is not very instructive.

Sen. Stephenson asked staff to work with the Division of Administrative Rules and the Department of Public Safety in looking at current procedures to determine whether there is consensus to incorporate those procedures into rule or if it is sufficient to leave them in the department's policies and procedures.

Colonel Fuhr apologized publically to Mr. Barzee.

Lt. Troy Denney, Utah Highway Patrol, spoke in support of the efficient and transparent complaint process now in place.

6. Committee Business

The next meeting was scheduled for Tuesday, January 12, 2016, at 10:00 a.m.

7. Adjournment

Chair Oda adjourned the meeting at 12:51 p.m.